

CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - MAY 2, 2001

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 7:04 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy.

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Parks & Recreation Commissioner Rick Page led the Pledge of Allegiance.

ANNOUNCEMENTS

Recreation Supervisor Luggar announced the second annual *Art Ala Carte* hands on art event for children between the ages of 5-11 to be held Saturday, May 12, 2001 from 11:00 a.m. to 3:00 p.m. at PA Walsh Elementary School. She indicated that volunteers are needed to assist with this hands on art event.

PRESENTATION

Gloria Pariseau, President of the Morgan Hill Historical Society, introduced Peter Anderson who in turn introduced the following Poppy Jasper Committee Members: Rick Page, Evelyn and Takao Kobayashi, Ruth Johnson, and Bill Tykol who *Unveiled the Poppy Jasper Rock*. He also introduced and thanked the following individuals: Warren Gwinn, Gwinn Craft Cabinetry (craftsman for the transportable stand and a display box that will house the Poppy Jasper); Bob Snow, The Design Factory, (designed and printed flyers used for the fundraising efforts); and Gino Acevado (guided and coached the committee). He indicated that the Poppy Jasper would be on loan to the City for display and encouraged businesses and organizations to contact the Historical Society to arrange for display of the Poppy Jasper.

Mayor Kennedy thanked the Poppy Jasper Committee for their efforts and wonderful work of art that preserves an important part of Morgan Hill's history and its surroundings.

PROCLAMATION

Mayor Kennedy presented a proclamation to City Clerk Torrez, Deputy City Clerk Corbet and City Clerk Staff Member Lewis, Proclaiming April 29-May 5, 2001 as *City Clerk's Week*.

CITY COUNCIL REPORT

Council Member Carr reported on the South County Regional Wastewater Authority (SCRWA) Board. He indicated that this Board oversees the wastewater treatment facility that is shared with the City of Gilroy. He indicated that the operation of this facility is contracted out to Operations Management International (OMI). He stated that OMI was one of four recent recipients to receive the 2000 National Malcolm Baldrige Award, the nations premier award for performance excellence in quality achievement. He indicated that Mayor Kennedy and he had the opportunity to travel to Sacramento on April 18 and 19 on an advocacy trip with other members of the Santa Clara County Cities Association and the Silicon Valley Manufacturing Group. The group visited Sacramento to advocate specific issues that address the quality of life in Silicon Valley such as affordable housing, transportation, local government funding and energy. The group left the Governor and the legislators with a message about some of the difficulties being experienced in Silicon Valley and some of the legislative remedies to problems. The group also came away with a great understanding of the true severity of the energy crises being faced. He felt that the message about energy conservation really needs to be taken to heart. He indicated that there are a lot of bills in Sacramento that will effect energy in the coming months as well as long term. Some will provide benefits to those who conserve energy, including local government.

Mayor Kennedy stated that he has requested that an item be placed on the next Santa Clara County Cities Association agenda that focuses attention to all cities in Santa Clara County on how critical the energy issue is and what citizens and communities must do. He stated that the Santa Clara County Cities Association has requested that cities partner with the Silicon Valley Manufacturing Group to put forth a special program to reach out to individuals and communities to explain what they can do to conserve energy and get through this summer crises to minimize impacts to lives, jobs and families.

CITY MANAGER'S REPORT

City Manager Tewes indicated that he did not have a City Manager's report to present this evening.

CITY ATTORNEY'S REPORT

City Attorney Leichter reported that the May Litigation Summary has been distributed, noting that the City is down to four cases. She indicated that the City has received the satisfaction of judgement in the case of Campos and Barnello vs. City of Morgan Hill. Therefore, this case has dropped from the litigation list.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on the agenda.

Council Member Chang stated that the Police Officers Association will be serving at Marie Callander's from 5:30-9:00 p.m. on Friday, May 4, as part of the "Tip a COP" event to benefit the Special Olympics. She indicated that she has volunteered to waitress at this event and invited the public to attend and help support

the Special Olympics.

City Council Action

CONSENT CALENDAR:

Council Member Tate requested that item 3 be pulled from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **approved** Consent Calendar Item 1-5 as follows:*

1. **NINE MONTH PROGRESS REPORT ON 2000-2001 CITY WORKPLAN**

Action: ***Received*** and ***Filed*** Report.

2. **INCREASE IN CONTRACT AMOUNTS FOR PLAN CHECKING CONSULTING SERVICES FOR THE COMMUNITY DEVELOPMENT DEPARTMENT BUILDING DIVISION**

Action: 1) ***Transferred*** \$80,000 from the Available Unappropriated Balance of the Community Development Building Division General Salaries Account to the Consultant Services Account (Acct. #206-5130-42231), and 2) ***Authorized*** City Manager to Amend the Agreement to the Plan Checking Consultants Contract.

4. **REQUEST TO EXTEND THE APPLICATION FILING PERIOD FOR THE RECRUITMENT OF ARCHITECTURAL AND SITE REVIEW BOARD (ARB) MEMBERS**

Actions: ***Authorized*** Staff to Extend the Application Filing Period for the Recruitment of ARB Members to May 25, 2001 or Until Filled.

5. **PROPOSED AMENDMENT TO THE CITY'S CONFLICT OF INTEREST CODE - Resolution No. 5472**

Action: ***Adopted*** Resolution No. 5472, Amending the City's Conflict of Interest Code.

3. **DESIGNATING POPPY JASPER AS THE CITY'S OFFICIAL "GEM" - Resolution No. 5471**

Council Member Tate indicated that in City Clerk Torrez's report to the City Council, it points out that on May 19, 1965, the city council of that time, designated the Paul Scarlet Rose as the City's flower and established the colors of Red and Gold as the City's official colors. He stated that he recently read in the Morgan Hill times a letter from an individual who talked about the Morgan Hill Rose. He asked why the Morgan Hill Rose was not the City's official flower? He asked whether the Morgan Hill Historical Society has an opinion if this flower and colors are the proper designations?

Ms. Pariseau responded that the Historical Society did not know that there was a Morgan Hill Rose and that it was not until the Historical Society read the article in the newspaper that they started to research this issue. She indicated that the Historical Society may be coming back to the City Council with an amended resolution regarding the Morgan Hill Rose.

Mayor Kennedy requested that staff identify the Poppy Jasper as the City's gem stone and identify the City's flower and colors in City Hall. He further requested that the Morgan Hill flag be prominently displayed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5471, Designating the Poppy Jasper as the City's Official Gem.*

PUBLIC HEARINGS:

6. DEVELOPMENT AGREEMENT AMENDMENT DAA-01-02: NINA LANE -DOAN - *Ordinance No. 1506, New Series*

Mayor Pro Tempore Sellers recused himself from agenda item 6 due to a conflict of interest.

Planning Manager Rowe presented the staff report and indicated that there is no specific language in Measure P that limits extensions to one or two years, noting that it has been a council policy to limit the number of extensions granted. He informed the City Council that the Planning Commission felt that one final extension for a 90-day period would be appropriate based on the problems that have come beyond the property owner's control.

Council Member Carr inquired as to the reason of the original extension granted in May 1999? Mr. Rowe deferred the response to this question to Mr. John Telfer.

Mayor Kennedy opened the public hearing. John Telfer, representing the property owners, stated that his relationship to this application is recent (January 2001). Therefore, he could not speak too far back as to the history of this application. He felt that the staff report correctly pointed out that all of the delays have been outside the control of the property owner. He stated that a final map is projected for City Council approval and recordation within a few weeks. He stated that the final map has been held up by environmental testing proven to be false. While he understands that a third extension is out of the ordinary, he felt that the circumstances surrounding the entitlement processing of the application has been far from ordinary. He requested that the City Council grant a short 90-day extension so that the applicant can proceed with the sale of the property. He stated that he was not sure as to the reason for the original extension. No further input being offered, the public hearing was closed.

Council Member Tate stated that it was his recollection that the first extension was to allow the applicant to put his application together.

City Attorney Leichter stated that in view of the fact that this is an unusual request and that the City has never granted a third Exception to Loss of Building Allocation (ELBA) before, she recommended that the record be clear that the motion is subject to the particular facts of this case and that it does not establish a precedent for the granting of future ELBAs.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Waived** the Reading in Full of the Development Agreement Amendment (DAA) Ordinance, No. 1506, New Series, as amended.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1506, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1440, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-98-09: NINA LANE-DOAN TO ALLOW FOR A 90-DAY EXTENSION OF TIME (APN 817-60-021) with the addition of a Section to state: "The City Council finds that the particular facts of this case are truly unique and that approval does not establish a precedent for granting future Exceptions to Loss of Building Allocations" by the following roll call vote: AYES: Carr, Chang, Kennedy, Tate; NOES: None; ABSTAIN: Sellers; ABSENT: None.*

Mayor Pro Tempore Sellers resumed his seat on the dais.

7. MEASURE P APPEAL APPLICATION AP-01-01: COCHRANE - COYOTE ESTATES, MISSION RANCH AND ALICANTE DEVELOPMENTS - Resolution No. 5473

Council Member Chang recused herself from agenda items 7 and 8 due to a potential conflicts of interests (owner of property approximately 500 feet from affected properties).

Planning Manager Rowe presented the staff report and informed the City Council that the City has made changes to the evaluation criteria in recent years to give ongoing projects points as it would be a benefit to have projects continue and be completed. He noted that ongoing projects have access to points that new projects do not. He informed the City Council that the Planning Commission proposes to address this issue. He said that Mr. Oliver is recommending that the City Council set aside allocations for projects located within the Cochrane Road Assessment District (CRAD). Staff did not recommend awarding additional points to ongoing projects because it may adversely affect the ability of new projects to compete in subsequent years. However, staff believes that there is merit in looking at ongoing projects comprehensively and come up with specific approaches to address this issue. He requested that the City Council allow staff to work with the Planning Commission with specific approaches and return with a recommendation to the City Council. Staff recommended Council denial of the appeal. Should the City Council wish to grant the appeal, staff would need to receive directions on the modifications on the allotment evaluation and any final award and distribution of building allotment, if applicable.

Council Member Carr noted that the staff report indicates that the core area changed in 1995. He asked if there was discussion of grandfathering projects that had previously received allotments under the previous core area? Mr. Rowe responded that there was discussion regarding grandfathering projects. However, if you grandfather projects, you apply different sets of rules to different projects and that there would be an issue of fairness. He informed the City Council that adjustments have been made in other areas that have more than made up for the loss of two points under the core area. He clarified that in order for a project to be awarded an allocation, it has to receive at least 50% of the allotments requested in the first year. If a project does not receive a minimum of 50% of the allocations being requested, the policy states that the city would need to go to the next project down on the list that is requesting fewer allocations and award the allotments, if it can achieve the 50% requirement. He indicated that applicants do not want to be passed over, therefore, they modify their allotment request to state that they would request fewer number of

allocations. Applicants agree to accept less than 50% of the requested allocations to side step the 50% allotment requirement, waiving their right to the policy.

Mayor Kennedy opened the public hearing.

Dick Oliver presented the appeal for the following projects: Alicante, Mission Ranch and Coyote Estates. He indicated that the projects involve the same issues. He requested that the three issues be considered separately. 1) The issue relating to the Cochrane Road Assessment District (CRAD) and the 1984 judgement, noting that all three projects are in the CRAD areas. 2) The completion of partially completed projects and the future allowable buildout within Measure P to reach the cap in the year 2010. 3) A request for additional allotments in this year's Measure P competition for the Mission Ranch and the Coyote Estates project. He indicated that he has been working with the Coyote Estates and Mission Ranch projects since 1998 and with the Alicante/Lupine project since 1999.

Mr. Oliver addressed the CRAD issue and indicated that in 1984, the city signed a stipulated judgement in the Santa Clara County Superior Court with the CRAD owners. This was a stipulated judgement where the city agreed to support annexation, subdivision, and development at an overall density of five units per acre. At that time, there were 530 acres on the east side of Highway 101 that were designated residential. This would have supported 2,500 dwelling units. He noted that Measure E was in place at the time. In 1990, the Ruges requested that the courts revisit the judgement because they did not believe that they were being treated fairly and had not received allocations even though two applications had been filed. In November 7, 1990, the court ordered the city to work with him to develop an overall master plan and to proceed with the development and subdivision of the CRAD properties based upon approximately 50 units per year on a staggered basis so that Measure E was not overwhelmed. Right after the judgement was issued, the citizens adopted Measure P. He indicated that the Citizens for an Orderly Residential Development (CORD) went to a different judge in the court system to request that the court stop the city from meeting with him because it was felt that it was a violation of Measure P. A hearing was held on this issue and the judge held that the CRAD properties were not exempt from Measure P. He indicated that an appeal was filed on this ruling but that it was filed a day late, resulting on the appeal dying. He indicated that this judgement is still in effect and that Measure P controls that CRAD properties must comply with Measure P. He stated that the 1984 judgement is still in affect and felt that the city must comply with this judgement. He felt that the city is complying with several portions of the judgement as the city is conducting annexations and is looking at densities. However, when it comes to issuing development rights and subdivisions, the City is relying on Measure P. This results in the CRAD development being very limited. This resulted in the Ruge family going back to court in 1998, and requesting that the court look at CRAD again. He indicated that the trial court ruled in favor of the City. This time the Ruge's submitted their appeal on time, noting that the appellant court ruled in favor of the Ruge family. The ruling was remanded to the trial court. At his request, this issue has been on hold for the last two years as he has tried to work with the City Council and the Planning Commission to try to get an equitable resolution of the CRAD issue and the judgement of 1984.

Mr. Oliver identified all the units that have been allocated within the City. Since 1984, approximately 8% of the units were awarded to CRAD properties. If you deduct the period of time before 1984 and 1987 when no applications were made by CRAD property owners, the percentage goes up by 10.3%. He stated that approximately 11% is the representative number of all units built in the CRAD area. He felt that this is a

question of fairness of the judgement signed by the City and the CRAD property owners. He stated that there are approximately 440 acres left in the CRAD residential land located east of Highway 101 yet to be developed. Overlaying the new General Plan designation of densities over these parcels, there would be a range of density of 1-3, 3-5, and 5-14 under various properties. This equates to between a low density of 774 and a high density of 1,568 homes yet to be developed under the judgement. Although the higher density does not equate to the court mandated 5 units to the acre, it needs to be realized that some of the higher density has changed in designation to highway commercial, commercial and the hospital. Therefore, these lands have to be pulled out and that five units may not be the right number even though the court judgement so stipulates. The lower density represents 1.75 units per acre overall and the higher end represents 3.56 units per acre. If the remaining CRAD properties build out at an average of 20 units per year, it would take 39-78 years to build out the CRAD properties. At 50 units per year, it would take between 16 and 32 years for the CRAD residential properties to develop out. He did not believe that the City intended to stretch out development over several years. He requested that the CRAD property owners receive a special set aside and receive recognition that there is an existing agreement within Measure P to get the CRAD properties developed in a reasonable manner and time frame. He noted that CRAD was formed for the purpose of creating a sewer and water line to not only serve residential properties but the hospital and lands to the west (e.g., Morgan Hill Ranch, Madrone Business Park, Cochrane Plaza). In the last 17 years, CRAD property owners have not received their fair share of benefits for paying the same price as the commercial uses or the city who has collected taxes and received the benefits of the hospital.

Mr. Oliver noted that Planning Manager Rowe mentioned the issue of the criteria being changed shortly after the Measure P allocation to the Coyote Estates and Mission Ranch projects in 1994. He stated that a meeting took place at approximately 11:30 p.m. and that developers were not aware of this meeting or were present to address the issue. At this meeting, a comment was made by one of the Commissioner's that he was voting for changes because he wanted to see the CRAD properties be limited or restricted to developing their properties. He did not believe that this was fair and felt that the CRAD properties should be grandfathered even though it might result in a hardship to other developers in the city as they do not have the benefit of the judgement and did not have the burden of paying the CRAD fees for over 15 years.

Mr. Oliver stated that he has spoken to each council member individually and did not request commitments from any of the council members. The census data shows that there are 690 homes left to build in the city between now and 2010 when the population builds out to reach the cap. Based on the figures that he and Ralph Lyle worked on, there are 587 homes left to build in the projects that have already started, leaving 103 homes for new projects. He felt that every time a new project is approved, it builds a back log. He felt that a policy should be put into place that would allow projects to be completed and not leave half-built projects as they would be a disadvantage to the city and an economic burden to developers. He identified the total point scores/allotments awarded to developers by the Planning Commission, noting that one project is a new project. He noted that the problem of uncompleted projects can be seen on the east side versus the west side of Monterey Road because there are fewer projects on the west side. He did not believe that the Planning Commission recommended a fair distribution of the units that were available.

Mr. Oliver requested that the City Council: 1) grandfather the points relating to being located central to the core or create a CRAD set aside. He felt that a justification to establish a set aside are: CRAD properties have been contributing to the sewer and water and have been significant to the build up of the Madrone Business Park and Morgan Hill Business Ranch; the 1984 judgement would be honored; and the fact that

Measure P authorizes the establishment of set aside categories. 2) He requested that the City Council give direction to the Planning Commission to address the concern of completing partially completed projects. He further recommended that the City Council direct the Planning Commission to providing CRAD allotments in alternate years, consider giving each project ½ point for each year they competed after initial allocation provided that the same commitments and same quality are followed in each application. 3) create a special set aside for partially completed projects of approximately 75 units a year. He requested that the Lupine project be grandfathered; that the allocations be redistributed or that 4 allocations be borrowed from the Micro set aside, or taken from the Warmington project, in order to award the Mission Ranch allocations; and that 2 additional units be granted to the Coyote Ranch project in order to build 2 BMR units from next year's set aside.

Ralph Lyle stated that he was not speaking on behalf of the Planning Commission, noting that the suggestion he is going to present this evening has not been discussed by the Planning Commission. He stated that he disagreed with most of the requests as listed on the sheet presented by Mr. Oliver. He indicated that he has worked with Mr. Oliver's numbers and that these numbers can be changed based on the years that they did not apply for allocations that can be taken out of the calculation. In addition, he stated that there have been micro projects that have not been able to perform. One of the reasons that they are unable to perform is due to the fact that they have less upfront planning time versus a market rate project. Micro projects are not able to build as quickly as thought and many stand to lose their allocations as a year's time is needed to build. He recommended that the Council take the remaining 7 allotments away from the 2002-03 year's allocation and not have a micro competition that year. The Micro units would still apply February 1, 2002 just as they would have had the Council not taken the allocations away. He suggested that the Micros compete as they have done in the past but that they would have a year to prepare. Four units can be applied to the east side project(s) and the other three units can be applied to a west side project. He did not believe that Micro applicants would be concerned, if explained the reasons.

Mr. Rowe stated that should the City Council wish to support Mr. Lyle's recommendation, this action can be referred back to the Planning Commission and that they can modify their action or direct staff to return with a resolution to the City Council that would modify the Commission's distribution based on the appeal. Regarding phasing, the resolution would need to be revised and be brought back to the City Council.

No further comments being offered, the public hearing was closed.

Council Member Tate felt that in terms of the whole issue of CRAD and Measure P, he is still of the opinion that Measure P was passed by the voters and that it has become the law of the City. He felt that it was the duty of the City Council to enforce the law. Measure P is structured such that there are policies in place, noting that the policies are modified, as deemed appropriate. He stated that he was on the Planning Commission in 1994 when more weight was given to proximity to the city. This modification was made because it was felt that this should be the direction that the city should be heading. The comment addressed by Mr. Oliver was not directed at CRAD as much as properties being located that much further away from the core. It was felt that there should be more weight given to distance from the core and that it was still his belief that this should be the case. Regarding CRAD vs. Measure P, he supports Measure P being the law. He felt that the information presented by Mr. Oliver about the number of homes yet to be constructed to complete existing projects was enlightening and educational. He felt that Mr. Oliver had some legitimate arguments in terms of focusing to the year 2010 in terms of getting projects built. He stated that he was

sympathetic in looking at the partially completed project issue. He noted that staff has indicated that the Planning Commission and the Measure P subcommittee is focusing on this issue. He would agree to establish a set aside in order to complete projects and place more emphases on completing projects. He said that he was not in a position to rule on Mr. Lyle's suggestion until there is an endorsement by the full Planning Commission. He would agree to look at the Micro allocation.

Mayor Sellers concurred with Commissioner Tate's comments. He said that he has long considered the formation of CRAD to be one of the bigger mistakes in the city's planning history. There are two things that are significant: 1) Measure P is the law and 2) the ruling and judgement is also the law that also needs to be adhered to. The issue that has the most resonance is future allocations. He concurred with Mr. Oliver that the City needs to look at completing projects, even if it means an increase in priority as you get last few years. He felt that the time is rapidly approaching where the city needs to take a look at Measure P and determine what happens next. He felt that it was important to start the process at the Council level because it would show the support of the community based on the community's support of growth control. He felt that it was important to stay close in touch with the Planning Commission on these issues and recommended that at least two meetings be held with the Planning Commission to make sure that they are in sync with the City Council. He also felt that Mr. Oliver's well-intentioned approach was enlightening and encouraging. He was looking forward to seeing recommendations from Measure P committees in subsequent years.

Council Member Carr said that the issue at hand is development that has been in the pipeline for 6-7 years. He expressed concern with projects that have started and are unable to complete. With the numbers presented by Mr. Oliver and Mr. Lyle, they are of concern based on the lack of allotments left in Measure P to complete existing and new projects. He felt that it was critical to complete projects to alleviate traffic, sound, and dust. He recommended that the City find ways to make sure that projects that commence construction are given priority to make sure that they are completed in a timely manner. He said that he would like to receive additional input from staff and the Planning Commission. He did not recommend that action be taken this evening, that this item be continued, and that specific recommendations be forwarded to the Planning Commission. He stated his support of Mr. Lyle's suggestion and that he also supported additional points for partially completed projects. He would be interested in looking at setasides for specific geographical areas. He recommended that this item be continued and that the City Council forward suggestions and recommendations to staff and the Planning Commission of items that may resolve the issue and result in an arrangement that would allow Mr. Oliver to withdraw his appeal application.

Mayor Kennedy stated that Council Member Carr's position is one that he would support. He stated that he did not want to slow down the process. If the City Council follows the suggestion of Council Member Carr, he asked where the city would be in terms of timing?

Mr. Rowe responded that as far as the Measure P initiative is concerned, the City has until April 1, 2002 to complete the award of allotments. He did not believe that a month's continuance would result in a problem.

Council Member Tate stated that his position is to send this issue to the Measure P committee consisting of developers and Planning Commission with direction from the City Council. He did not support establishing a set aside based on a geographical area as it is in direct conflict with the distance from the core criteria. He would support a set aside for ongoing projects. He stated that he would like to hear the

recommendation of the Measure P committee and Planning Commission. He did not believe that the process would be slowed down if the item was continued based on Mr. Lyle's suggestion relating to Micro P allocations as they have not had the opportunity to review and discuss this issue, noting that the recommendation could still be implemented.

Council Member Carr stated that he would agree that the Planning Commission should consider Mr. Lyle's recommendation of looking at the Micro allocations and bringing more allocations up to this year's allocations. He would also support Council Member Tate's suggestion that the Measure P committee look at other items. As the Measure P committee is about to conclude their charge, he recommended that a workshop be held with the Planning Commission and members of the subcommittee as soon as possible to allow Council Members to ask questions relating to proposed changes to the criteria.

Action: *Council Member Tate made a motion, seconded by Mayor Pro Tempore Sellers, to **adopt** the resolution, denying the appeal application.*

Council Member Carr clarified that he made a suggestion to continue the appeal to see if there is any other resolution that would result in the appeal being withdrawn. He recommended that the Planning Commission and staff review the recommendation to use next year's Micro allocations to this year's allocation. Mr. Oliver may receive enough allocations, resulting in the withdrawal of his appeal.

Action: *Council Member Tate and Mayor Pro Tempore Sellers **withdrew** their motion.*

Action: *Council Member Carr made a motion seconded by Council Member Tate, to **continue** the appeal application and recommended that the Planning Commission review the suggestion of future Micro allocations into this year's competition.*

Planning Manager Rowe asked if the Planning Commission would be given the latitude to look into dipping further into the subsequent year's allocation in order to round out some of the allocations needed for the projects?

Action: *It was the consensus of the City Council **to give** the Planning Commission latitude to recommend the best solution to the City Council and that the City Council is open into dipping further into next year's allocation.*

Vote: *The motion carried 4-0-1 with Council Member Chang abstaining.*

OTHER BUSINESS:

8. RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P) SECOND YEAR PHASING REQUESTS - Resolution No. 5470

Planning Manager Rowe presented the staff report. He recommended that the City Council adopt a resolution awarding projects allocations into a second year into FY 2003-04. He indicated that staff does not see a need to delay action because Council action this evening would not negatively affect projects that have already received allocations.

Mayor Kennedy opened the floor to public comment.

Wayne O'Connell requested that the City Council not delay action on this item based on the appeal on the prior agenda item. He stated that developers have spent millions of dollars based upon the rules that were set a year ago. Decisions that the City Council may wish to make at a policy level or special consideration to Mr. Oliver's concern would be acceptable. However, should there be any matters on policy for the future, the development community would like to have the opportunity to comment on them. He concurred that Micro projects have to go through about the same lengthy procedure as a market rate project. He felt that it would be difficult for Micro projects to get through the process especially if they do not have a great deal of experience in processing their application through the City of Morgan Hill to get the application completed in the time allotted, noting that they are all behind schedule. Also, in the case of the Tovare project, he stated that he has an agenda item of the tentative map scheduled before the Planning Commission next week for the 13 allotments as well as the one allocated the prior year. He indicated that the Tovare project stepped aside last year and allowed other projects, including Mr. Oliver, to take some of the allocations. He stated that these allocations are needed from a budgetary stand point to be able to, in a cost effective way, and to install improvements this summer. He requested that the Council act on this agenda item this evening as it has scheduling impacts on his project.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council on a 4-0-1 vote with Council Member Chang abstaining, **Adopted** Resolution No. 5470, Approving Second Year Phasing into Fiscal Year 2003-2004 for Projects in the 2000-2001 Open/Market Rate Competition.*

Council Member Chang resumed her seat on the dais.

9. LIBRARY COMMISSION APPOINTMENTS AND EXTENSION OF THE PARKS AND RECREATION COMMISSION TERM

Recreation Manager Spier presented the staff report. She requested Council extension of the Parks and Recreation Commission appointments and appointment of the following to the Library Commission per the Library subcommittee recommendation: Charles Cameron, a one year term to April 2002; Jeanne Gregg, Kate Keeshen, George Nell and Kathleen Stanaway for two year terms to 2003. She further requested that the City Council consider the process that the Library subcommittee went through and that this process continue and apply to the Parks and Recreation Commission. In order to do so, the Parks and Recreation terms will need to be extended by one month to allow interviews to occur for these vacancies. She also requested that the City Council combine the term limits of the Parks and Recreation and Library Commissions so that staff can focus on one recruitment period. She noted that the Parks and Recreation Commission have three subcommittees: Youth Advisory, Bicycle Advisory, and Senior Advisory Committees. Staff requested that the City Council consider the Youth Advisory Committee on its own recruitment as it is a very dedicated group that staff is looking to fill vacancies and that staff is trying to coordinate it with the school year. However, it is staff's belief that there is some possibility of combining the recruitment for the Senior and the Bicycle Advisory Committees so that the Parks and Recreation Commission can conduct one recruitment for these positions as well. She indicated that staff would like to

set up interviews for the Parks and Recreation Commission prior to June 1, 2001.

Council Member Tate stated that the experience serving on the Library subcommittee was an extremely good process. However, his only concern was in the 1% where there may not be an agreement on the recommendation of the subcommittee. The City Council will need to understand how it will address/handle this instance.

Action: *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **appointed** the following individuals to the Library Commission: Charles Cameron to serve a term until April 2002; and Jeanne Greg, Kay Keeshen, George Nale, and Kathleen Stanaway to serve terms to April 2003.*

Action: *On a motion by Council Member Carr and seconded by Council Member Tate, the City Council unanimously (5-0) **extended** the term of the Parks and Recreation Commission for one month.*

Council Members Carr and Chang volunteered to serve on the subcommittee to interview Parks and Recreation Commissioners.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **appointed** Council Members Carr and Chang to serve on the subcommittee to interview Parks and Recreation Commission candidates.*

Council Member Tate stated that it appears that the Council supports the remainder of staff's recommendation.

Mayor Pro Tempore Sellers recommended that the subcommittee process continue. If there should be a conflict within the subcommittee relating to appointment, the conflict should return to the City Council for discussion and resolution.

Action: *It was the consensus of the City Council **to support** the new process of interviewing by subcommittee. Conflicts between the subcommittee are to return to the City Council for resolution.*

SECOND READING OF ORDINANCE:

Council Members Chang and Tate stated that they would be abstaining from Agenda Item No. 10. due to conflict of interests.

10. ADOPTED ORDINANCE NO. 1504 NEW SERIES

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the*

*City Council, on a 3-0-2 vote with Council Members Chang and Tate abstaining, **Adopted** Ordinance No. 1504, New Series as follows:*

An Ordinance of the City Council of the City of Morgan Hill Prezoning a 2.3-acre Parcel (APN 767-21-045) from County RR to City R-2(3,500)/RDA, Multi-family Medium Residential Planned Development and 10.7 Acres from County RR to City R-1 9,000/RPD Single Family Medium Residential Planned Unit Development (APN 767-21-013, 014 & 015) by the following roll call vote: AYES: Carr, Kennedy, Sellers; NOES: None; ABSTAIN: Chang and Tate; ABSENT: None.

11) ADOPTED ORDINANCE NO. 1505, NEW SERIES

Action: *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Ordinance No. 1505, New Series as follows:*

An Ordinance of the City Council of the City of Morgan Hill Approving Zoning Amendment, ZA-00-22: Madrone Parkway - TBI (APN's 726-35-001 (Portion) & 726-35-002) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

City Council and Redevelopment Agency Action

OTHER BUSINESS:

12. SUMMER 2001 MEETING SCHEDULE

Council Services and Records Manager Torrez presented the staff report.

Mayor/Chairman Kennedy indicated that he would not be available to meet on July 18 and July 25 but that he would be available the entire month of August. He recommended that the City Council Cancel its July 4 meeting, schedule a special meeting on July 11, and either cancel the July 18 and July 25 meeting or shift these meetings to August.

Council Member Chang recommended the cancellation of the July 18 meeting but retain the July 25 meeting.

Mayor Pro Tempore Sellers recommended that the August schedule remain as is. However, he requested that a special meeting not be scheduled on August 29 as he will be out of town the last few days in August.

Mayor Kennedy indicated that he would favor interviewing Planning Commission and ARB candidates together in an informal setting (conference room).

Action: *By consensus the City Council **Directed** the following Summer Meeting Schedule: May 16, 5:30 Brown Act Workshop, 7:00 p.m. regular meeting; May 23, 7:00 p.m. regular meeting;*

May 30 5:00 p.m. special meeting (Planning Commission and ARB interviews) and 7:00 p.m. special meeting (General Plan); June 6: 5-7 p.m. (or earlier, if necessary) Measure P workshop, 7:00 p.m. regular meeting; June 8, 8:30 a.m. - 12:30 p.m. (budget workshop); June 13, 7:00 p.m. special meeting (General Plan); June 15, 8:30 a.m. - 12:30 p.m. (budget/CIP workshop); June 20, 7:00 p.m. regular meeting; June 27 - 7:00 p.m. regular meeting; July 4 meeting canceled; July 11, 7:00 p.m. special meeting; July 18 meeting canceled; July 25 regular meeting; and no changes to the August meeting schedule.

City Council Action

13. REVIEW OF DRAFT CITY COUNCIL BUDGET NARRATIVE AND DISCUSSION OF FISCAL YEAR 2001-02 BUDGET

Council Services and Records Manager Torrez presented the staff report.

Budget Narratives

Council Member Tate requested that the fact that the City is becoming an e-government community and Council Member Chang recommended that an energy conservation program be included in the City Council's activity goal.

FY 2001/02 City Council Budget

Mayor Pro Tempore Sellers recommended more focus be given to computer/software because it will help City Council Members become more efficient. He requested that consideration be given to the purchase of laptop computers.

Mayor Kennedy felt that council members should have the ability to access a computer at City Hall. He suggested that convertible office space be made available for each council member, including the Mayor. He suggested that a space planner be retained to come up with proposals for convertible office space that would provide space for the mayor and council members that would accommodate desks, personal computers and a conference room.

Council Member Chang recommended the use of the former portable trailer.

Council Member Tate supported Mayor Kennedy's comment. He finds that many times that it would be desirable to have a place that has a phone and a place to write so that he can take advantage of time between doing things downtown and attending different meetings.

Mayor Pro Tempore Sellers stated that he would be supportive of investigating mayor and council members' convertible office space as long it does not further severely impact staff or impact their ability to work.

City Manager Tewes said that long range, the City Council has authorized staff to conduct a master plan for this campus which will include a library. Staff will investigate whether there is additional space for a city hall and a new council chamber. He indicated that the capital improvement program that the City Council will see suggests that the City undertake the project of expending city hall at this campus. He indicated that in talking with the space planners, staff has suggested the needs for each council member. Staff is requesting that the City Council identify what should be included for the budget next year. He indicated that funds could be allocated to conduct a space study at a not to exceed amount of \$100,000.

Council Member Chang stated that she has an office in town and therefore does not need an office at city hall. However, it has been convenient to be able to use the conference room to meet with individuals. She stated her support of providing city council members the ability to meet with individuals. She suggested the use of the vacated temporary trailer. She did not believe that it was necessary for the city council to have office space in city hall and not interfere with staff activities.

Mayor Kennedy noted that the Council Chambers is not in use all the time and that it could be used as council office space. He did not believe that the architects looked at council members' office space needs at the time the architects looked at space planning for staff.

City Manager Tewes indicated that the architects looked at council space needs but that some council members felt that their suggestions were inadequate.

Mayor Kennedy stated that privacy is important from time to time. He recommended that funds be budgeted to conduct a conceptual design evaluation of office space in an amount up not to exceed \$100,000. He also recommended including access to personal computers and/or lap top computers and telephones. He recommended that someone be brought in to look at Council Members space needs and return to the Council with proposals. He asked if a city car pool is available for Council Member use for city business trips?

City Manager Tewes responded that there is a vehicle at city hall for council members on official city business.

Council Member Carr noted that City Council members have the ability to be reimbursed for mileage.

Mayor Kennedy addressed the issue of compensation for Council Members and Mayor. He recommended that the City Council initiate the appointment of a blue ribbon task force or committee to assess this issue to determine whether Council Members and the Mayor are adequately compensated for the work that they do.

Council Member Tate did not believe that a task force was needed and acknowledged that the City Council members and the Mayor were not adequately compensated. However, each member knew this fact when each sought office. He did not believe that there was a need for change.

Mayor Pro Tempore Sellers concurred that the Council is adequately compensated. If there is to be a review, he recommended that the review consider the significant cost of being a council member that is incurred and determine if there was a way to appropriately mitigate it. He felt that it may be helpful to go through the process and appoint a committee to review compensation. The issue of a cost deterrent to anyone running for office should be studied.

Mayor Kennedy agreed that a question that needs to be answered is whether inadequate compensation may be a deterrent to individuals seeking office. He felt that Council Member representatives to SCRWA board meetings should receive a stipend. He supported the City paying a stipend to Council Members for attending these type of off site meetings.

Council Member Chang felt that the issue is what is considered adequate compensation. She said that some look at the elected office as an opportunity to serve. She stated that she has made numerous sacrifices in certain cases and that it would be hard for her to judge what is fair compensation.

Mayor Kennedy stated that he is suggesting that an outside committee evaluate what is an adequate compensation as it is difficult for the City Council to be subjective in this matter.

Council Member Sellers suggested that if there is to be any recommendations to change the current practice, he recommended that changes not take effect until after the next council election and that they take effect with the subsequent council to ensure equity.

Mayor Kennedy said that there are some jobs that serving on the council reinforces one's day job. He did not believe that the election process supports favoring such positions.

Council Member Chang noted that being an elected official is a volunteer position. She stated that she has had to sacrifice personal income serving as an elected official.

Council Member Tate stated that seeking an elected office is a personal choice with a \$300/month compensation as a Council Member. This stipend compensates for some of the miscellaneous expenses one has in relation to holding an elected office. He agreed that you do not take this job for compensation and that it would influence a lot of individuals not able to run for office who could serve very well. He did not believe that the City could afford to do it differently. If \$300 is not enough to cover the miscellaneous expenses, he would support looking at a \$350 stipend.

Mayor Pro Tempore Sellers supported the establishment of a committee to look at the survey, other cities and the costs for serving as an elected council member.

Council Member Carr stated that Mayor Pro Tempore Sellers indicated that the cost of being a council member may be a detriment to losing good candidates. He noted that only three individuals ran for office the last election and felt that this is a low number for Morgan Hill. He would support having someone looking at this and in terms of getting good candidates to run for office, and not losing them because they

believe the cost is too great. He agreed that the City Council should not get to a position where it is compensated for what it does but that there may be other things that should be looked at such as auto pool or auto allowance based on Council assignments. He stated that outside agency assignments are not expectations that one has when one has when running for council. He felt that the outside assignments should be looked at because the city and the community needs to think regionally and make sure that the city is not inhibiting good people from running for office because of what they are being asked to do.

Mayor Kennedy suggested that the Council authorize him to meet with the City Manager to discuss the suggestion of possibly appointing a committee to look at this issue and bring it back as a future agenda item.

Council Member Tate stated that he would support brining back this issue but stated that he would not be endorsing the appointment of a committee at this time.

Action: *By consensus, the City Council **authorized** the Mayor to meet with the City Manager to discuss the suggestion of possibly appointing a committee to look at this issue and report back to the city council as a future agenda item.*

CLOSED SESSION:

City Attorney/Agency Counsel Leichter announced the below listed closed session items. She informed the City Council that Closed Session Item 5 will not be called because there is no need for this session.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(c) (one case)

2.

CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority:	Government Code 54956.8, 54956.9(b), & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)
City Negotiators:	City Council/Agency Members; City Manager/Executive Director; City Attorney/Agency Counsel; and Special Counsel
For Property Owner:	San Jose Christian College representatives
Closed Session Topic/Under Negotiations:	Potential Litigation & Price and Terms of Payment

3.

CONFERENCE WITH LABOR NEGOTIATORS

Legal Authority:	Government Code Section 54957.6
Agency Negotiators:	City Manager, Assistant to the City Manager (Melissa Dile), City Attorney

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority:	Government Code Section 54956.9(a)
Name of Case:	City of San Jose v. Morgan Hill Unified School District, City of Morgan

Case Number: Hill
Superior Court, County of Santa Clara CV794073

5.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(b) (1 potential case)

6.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION

Legal Authority	Government Code 54956.8
Property:	APN 817-13-001; 37.8 acres (soccer complex)
Negotiating Parties:	
For City:	City Manager, City Attorney, Public Works Director
For Property Owners:	Tadashi & Alice A. Kadonaga, Trustee
Under Negotiation:	Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION:

Mayor/Chairman Kennedy adjourned the meeting to closed session at 10:19 p.m.

RECONVENE:

Mayor Kennedy reconvened the meeting at 11:55 p.m.

CLOSED SESSION ANNOUNCEMENT:

City Attorney/Agency Council Leichter announced that no reportable action was taken on the above listed closed session items.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:56 p.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, City Clerk/Agency Secretary